

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
JOSEPH A. FERRARA, SR., FRANK H. FINKEL,  
MARC HERBST, THOMAS N. PIALI, DENISE  
RICHARDSON, ANTHONY D'AQUILA,  
THOMAS GESUALDI, LOUIS BISIGNANO,  
DOMINICK MARROCCO, and ANTHONY  
PIROZZI, as Trustees and Fiduciaries of the Local  
282 Welfare Trust Fund, the Local 282 Pension  
Trust Fund, the Local 282 Annuity Trust Fund, the  
Local 282 Job Training Trust Fund, and the Local  
282 Vacation and Sick Leave Trust Fund,

Plaintiffs,

-against-

SUKRAM AND SONS TRUCKING, INC.,

Defendant.

-----X

**APPEARANCES:**

**Cohen, Weiss and Simon, LLP**

*Attorneys for the plaintiffs*

330 West 42nd Street

New York, NY 10036

By: Elizabeth O'Leary, Esq.

Michael Seth Adler, Esq., of Counsel

**NO APPEARANCE**

Sukram and Sons Trucking, Inc.

**SPATT, District Judge.**

The plaintiff commenced this action on or about March 31, 2009, asserting claims pursuant to Section 502(a)(3) and 515 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §§ 1132(a)(3) and 1145. On

**ORDER**  
09-cv-1330 (ADS) (AKT)

May 13, 2010, the Court entered a default judgment against the defendant Sukram and Sons Trucking, Inc. (“Sukram”), and referred the matter to United States Magistrate Judge A. Kathleen Tomlinson for an inquest as to damages. On November 11, 2010, Judge Tomlinson issued a thorough Report recommending that the plaintiff be awarded damages in the amount of:

- \$52,844.84 for unpaid fringe benefits;
- \$19,187.91 for interest on the unpaid fringe benefits through September 22, 2010, with additional interest accruing at a daily rate of \$18.14 until judgment is entered;
- \$19,187.91 in liquidated damages through September 22, 2010, with additional interest accruing at a daily rate of \$18.14 until judgment is entered;
- \$350 in audit fees; and
- \$7,294.84 in attorneys’ fees and costs.

To date, no objection has been filed to Judge Tomlinson’s Report and Recommendation.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Tomlinson’s

Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Tomlinson's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

**ORDERED** that Judge Tomlinson's Report and Recommendation is adopted in its entirety, and it is further

**ORDERED** that the Clerk of the Court is directed to enter a default judgment against Sukram in the amount of \$91,570.66 in damages, plus \$36.82 for each day after September 22, 2010 until judgment is entered, plus \$7,294.84 in attorneys' fees; and it is further

**ORDERED** that the Clerk of the Court is respectfully directed to close this case.

**SO ORDERED.**

Dated: Central Islip, New York  
January 11, 2011

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge